

new borrowers (as defined in section 1003 of this title) on or after Oct. 1, 1998, see section 3(b)(3) of Pub. L. 108-409, as amended, set out as a note under section 1078-10 of this title.

For transition rules relating to amendments made by section 3(a)(1)(B) of Pub. L. 108-409, see section 3(a)(2) of Pub. L. 108-409, set out as a note under section 1078-10 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

PART D—FEDERAL PERKINS LOANS

CODIFICATION

This part was added as part E of title IV of Pub. L. 89-329 by Pub. L. 92-318, title I, §137(b), June 23, 1972, 86 Stat. 273, and amended by Pub. L. 94-482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95-43, June 15, 1977, 91 Stat. 213; Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143; Pub. L. 96-49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96-374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 97-301, Oct. 13, 1982, 96 Stat. 1400; Pub. L. 98-79, Aug. 15, 1983, 97 Stat. 476; Pub. L. 99-272, Apr. 7, 1986, 100 Stat. 82. Such part is shown herein, however, as having been added by Pub. L. 99-498, title IV, §405(a), Oct. 17, 1986, 100 Stat. 1439, without reference to such intervening amendments because of the extensive revision of this part by Pub. L. 99-498. The letter designation of this part was changed from “E” to “D” for codification purposes. See Codification note preceding section 1087a of this title.

§ 1087aa. Appropriations authorized

(a) Program authority

The Secretary shall carry out a program of stimulating and assisting in the establishment and maintenance of funds at institutions of higher education for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions or while engaged in programs of study abroad approved for credit by such institutions. Loans made under this part shall be known as “Federal Perkins Loans”.

(b) Authorization of appropriations

(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated \$300,000,000 for fiscal year 2009 and for each of the five succeeding fiscal years.

(2) In addition to the funds authorized under paragraph (1), there are hereby authorized to be appropriated such sums for fiscal year 2015 and each of the 5 succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 2015, to continue or complete courses of study.

(c) Use of appropriations

Any sums appropriated pursuant to subsection (b) of this section for any fiscal year shall be available for apportionment pursuant to section 1087bb of this title and for payments of Federal capital contributions therefrom to institutions of higher education which have agreements with the Secretary under section 1087cc of this title. Such Federal capital contributions and all contributions from such institutions shall be used for the establishment, expansion, and maintenance of student loan funds.

(Pub. L. 89-329, title IV, §461, as added Pub. L. 99-498, title IV, §405(a), Oct. 17, 1986, 100 Stat. 1439; amended Pub. L. 102-325, title IV, §461(a)(2)–(c), July 23, 1992, 106 Stat. 576; Pub. L. 105-244, title IV, §461, Oct. 7, 1998, 112 Stat. 1720; Pub. L. 110-315, title IV, §461, Aug. 14, 2008, 122 Stat. 3265.)

PRIOR PROVISIONS

A prior section 1087aa, Pub. L. 89-329, title IV, §461, as added Pub. L. 92-318, title I, §137(b), June 23, 1972, 86 Stat. 273; amended Pub. L. 94-482, title I, §130(a), (b), Oct. 12, 1976, 90 Stat. 2146; Pub. L. 96-49, §5(d)(1), (2), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96-374, title IV, §441, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1436, 1503, authorized a program to establish and maintain funds at institutions of higher education for making low-interest loans to students, prior to the general revision of this part by Pub. L. 99-498.

Another prior section 461 of Pub. L. 89-329 amended former section 403 of this title.

AMENDMENTS

2008—Subsec. (b)(1). Pub. L. 110-315, §461(1), substituted “\$300,000,000 for fiscal year 2009 and for each of the five succeeding fiscal years” for “\$250,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years”.

Subsec. (b)(2). Pub. L. 110-315, §461(2), substituted “2015” for “2003” in two places.

1998—Subsec. (b)(1). Pub. L. 105-244, §461(1), substituted “1999” for “1993”.

Subsec. (b)(2). Pub. L. 105-244, §461(2), substituted “2003” for “1997” in two places.

1992—Subsec. (a). Pub. L. 102-325, §461(a)(2), (b), inserted “or while engaged in programs of study abroad approved for credit by such institutions” after “in such institutions” and substituted “Federal Perkins Loans” for “Perkins Loans”.

Subsec. (b). Pub. L. 102-325, §461(c), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

“(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated \$268,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years.

“(2) In addition there are hereby authorized to be appropriated such sums for fiscal year 1991 and each of the five succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 1991, to continue or complete courses of study.”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

§ 1087bb. Allocation of funds

(a) Allocation based on previous allocation

(1) From the amount appropriated pursuant to section 1087aa(b) of this title for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to—

(A) 100 percent of the amount received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year), multiplied by

(B) the institution’s default penalty, as determined under subsection (e) of this section, except that if the institution has a cohort default rate in excess of the applicable maximum

cohort default rate under subsection (f) of this section, the institution may not receive an allocation under this paragraph.

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1999 but is not a first or second time participant, an amount equal to the greater of—

(i) \$5,000; or

(ii) 100 percent of the amount received and expended under this part for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1999 and is a first or second time participant, an amount equal to the greatest of—

(i) \$5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

(i) was a first-time participant in the program in fiscal year 2000 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(D) For any fiscal year after a fiscal year in which an institution receives an allocation under subparagraph (A), (B), or (C), the Secretary shall allocate to such institution an amount equal to the product of—

(i) the amount determined under subparagraph (A), (B), or (C), multiplied by

(ii) the institution's default penalty, as determined under subsection (e) of this section,

except that if the institution has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f) of this section, the institution may not receive an allocation under this paragraph.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(b) Allocation of excess based on share of excess eligible amounts

(1) From the remainder of the amount appropriated pursuant to section 1087aa(b) of this title after making the allocations required by subsection (a) of this section, the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) that institution's eligible amount (as determined under paragraph (3)), divided by (ii) the sum of the eligible amounts of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 1087aa(b) of this title for the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a) of this section,

except that an eligible institution which has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f) of this section may not receive an allocation under this paragraph.

(3) For any eligible institution, the eligible amount of that institution is equal to—

(A) the amount of the institution's self-help need, as determined under subsection (c) of this section; minus

(B) the institution's anticipated collections; multiplied by

(C) the institution's default penalty, as determined under subsection (e) of this section;

except that, if the institution has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f) of this section, the eligible amount of that institution is zero.

(c) Determination of institution's self-help need

(1) The amount of an institution's self-help need is equal to the sum of the self-help need of the institution's eligible undergraduate students and the self-help need of the institution's eligible graduate and professional students.

(2) To determine the self-help need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected

family contribution (computed in accordance with part E of this subchapter) of a representative sample within each income category for the second preceding fiscal year;

(C) compute 25 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

(F) multiply the number of eligible independent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3) To determine the self-help need of an institution's eligible graduate and professional students, the Secretary shall—

(A) establish various income categories for graduate and professional students;

(B) establish an expected family contribution for each income category of graduate and professional students, determined on the basis of the average expected family contribution (computed in accordance with part E of this subchapter) of a representative sample within each income category for the second preceding fiscal year;

(C) determine the average cost of attendance for all graduate and professional students;

(D) subtract from the average cost of attendance for all graduate and professional students (determined under subparagraph (C)), the expected family contribution (determined under subparagraph (B)) for each income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(E) multiply the amounts determined under subparagraph (D) by the number of eligible students in each category;

(F) add the amounts determined under subparagraph (E) for each income category.

(4)(A) For purposes of paragraphs (2) and (3), the term "average cost of attendance" means

the average of the attendance costs for undergraduate students and for graduate and professional students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

(B) The average undergraduate and graduate and professional tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate and graduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to 150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to \$600.

(d) Anticipated collections

(1) An institution's anticipated collections are equal to the amount which was collected during the second year preceding the beginning of the award period, multiplied by 1.21.

(2) The Secretary shall establish an appeals process by which the anticipated collections required in paragraph (1) may be waived for institutions with low cohort default rates in the program assisted under this part.

(e) Default penalties

(1) Years preceding fiscal year 2000

For any fiscal year preceding fiscal year 2000, any institution with a cohort default rate that—

(A) equals or exceeds 15 percent, shall establish a default reduction plan pursuant to regulations prescribed by the Secretary, except that such plan shall not be required with respect to an institution that has a default rate of less than 20 percent and that has less than 100 students who have loans under this part in such academic year;

(B) equals or exceeds 20 percent, but is less than 25 percent, shall have a default penalty of 0.9;

(C) equals or exceeds 25 percent, but is less than 30 percent, shall have a default penalty of 0.7; and

(D) equals or exceeds 30 percent shall have a default penalty of zero.

(2) Years following fiscal year 2000

For fiscal year 2000 and any succeeding fiscal year, any institution with a cohort default rate (as defined under subsection (g) of this section) that equals or exceeds 25 percent shall have a default penalty of zero.

(3) Ineligibility

(A) In general

For fiscal year 2000 and any succeeding fiscal year, any institution with a cohort de-

fault rate (as defined in subsection (g) of this section) that equals or exceeds 50 percent for each of the 3 most recent years for which data are available shall not be eligible to participate in a program under this part for the fiscal year for which the determination is made and the 2 succeeding fiscal years, unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of eligibility to the Secretary. The Secretary shall issue a decision on any such appeal within 45 days after the submission of the appeal. Such decision may permit the institution to continue to participate in a program under this part if—

(i) the institution demonstrates to the satisfaction of the Secretary that the calculation of the institution's cohort default rate is not accurate, and that recalculation would reduce the institution's cohort default rate for any of the 3 fiscal years below 50 percent; or

(ii) there are, in the judgment of the Secretary, such a small number of borrowers entering repayment that the application of this subparagraph would be inequitable.

(B) Continued participation

During an appeal under subparagraph (A), the Secretary may permit the institution to continue to participate in a program under this part.

(C) Return of funds

Within 90 days after the date of any termination pursuant to subparagraph (A), or the conclusion of any appeal pursuant to subparagraph (B), whichever is later, the balance of the student loan fund established under this part by the institution that is the subject of the termination shall be distributed as follows:

(i) The Secretary shall first be paid an amount which bears the same ratio to such balance (as of the date of such distribution) as the total amount of Federal capital contributions to such fund by the Secretary under this part bears to the sum of such Federal capital contributions and the capital contributions to such fund made by the institution.

(ii) The remainder of such student loan fund shall be paid to the institution.

(D) Use of returned funds

Any funds returned to the Secretary under this paragraph shall be reallocated to institutions of higher education pursuant to subsection (i) of this section.

(E) Definition

For the purposes of subparagraph (A), the term "loss of eligibility" shall be defined as the mandatory liquidation of an institution's student loan fund, and assignment of the institution's outstanding loan portfolio to the Secretary.

(f) Applicable maximum cohort default rate

(1) Award years prior to 2000

For award years prior to award year 2000, the applicable maximum cohort default rate is 30 percent.

(2) Award year 2000 and succeeding award years

For award year 2000 and subsequent years, the applicable maximum cohort default rate is 25 percent.

(g) "Cohort default rate" defined

(1)(A) The term "cohort default rate" means, for any award year in which 30 or more current and former students at the institution enter repayment on loans under this part (received for attendance at the institution), the percentage of those current and former students who enter repayment on such loans (received for attendance at that institution) in that award year who default before the end of the following award year.

(B) For any award year in which less than 30 of the institution's current and former students enter repayment, the term "cohort default rate" means the percentage of such current and former students who entered repayment on such loans in any of the three most recent award years and who default before the end of the award year immediately following the year in which they entered repayment.

(C) A loan on which a payment is made by the institution of higher education, its owner, agency, contractor, employee, or any other entity or individual affiliated with such institution, in order to avoid default by the borrower, is considered as in default for the purposes of this subsection.

(D) In the case of a student who has attended and borrowed at more than one school, the student (and his or her subsequent repayment or default) is attributed to the school for attendance at which the student received the loan that entered repayment in the award year.

(E) In determining the number of students who default before the end of such award year, the institution, in calculating the cohort default rate, shall exclude—

(i) any loan on which the borrower has, after the time periods specified in paragraph (2)—

(I) voluntarily made 6 consecutive payments;

(II) voluntarily made all payments currently due;

(III) repaid in full the amount due on the loan; or

(IV) received a deferment or forbearance, based on a condition that began prior to such time periods;

(ii) any loan which has, after the time periods specified in paragraph (2), been rehabilitated or canceled; and

(iii) any other loan that the Secretary determines should be excluded from such determination.

(F) The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a cohort default rate determination under this subsection through the use of such measures as branching, consolidation, change of ownership or control or other means as determined by the Secretary.

(2) For purposes of calculating the cohort default rate under this subsection, a loan shall be considered to be in default—

(A) 240 days (in the case of a loan repayable monthly), or

(B) 270 days (in the case of a loan repayable quarterly),

after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note.

(h) Filing deadlines

The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

(i) Reallocation of excess allocations

(1) In general

(A) If an institution of higher education returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year, the Secretary shall reallocate 80 percent of such returned portions to participating institutions in an amount not to exceed such participating institution's excess eligible amounts as determined under paragraph (2).

(B) For the purpose of this subsection, the term "participating institution" means an institution of higher education that—

- (i) was a participant in the program assisted under this part in fiscal year 1999; and
- (ii) did not receive an allocation under subsection (a) of this section in the fiscal year for which the reallocation determination is made.

(2) Excess eligible amount

For any participating institution, the excess eligible amount is the amount, if any, by which—

(A)(i) that institution's eligible amount (as determined under subsection (b)(3) of this section), divided by (ii) the sum of the eligible amounts of all participating institutions (as determined under paragraph (3)), multiplied by (iii) the amount of funds available for reallocation under this subsection; exceeds

(B) the amount required to be allocated to that institution under subsection (b) of this section.

(3) Remainder

The Secretary shall reallocate the remainder of such returned portions in accordance with regulations of the Secretary.

(4) Allocation reductions

If under paragraph (1) of this subsection an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing it is contrary to the interest of the program.

(Pub. L. 89–329, title IV, § 462, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1440; amended Pub. L. 100–50, § 13(a)–(d), June 3, 1987, 101 Stat. 348; Pub. L. 102–325, title IV, § 462, July 23, 1992, 106 Stat. 576; Pub. L. 103–208, § 2(f)(1)–(4), Dec. 20, 1993, 107 Stat. 2470, 2471; Pub. L. 105–244, title IV, § 462(a)(1), (2), (b)–(e), Oct. 7, 1998, 112 Stat. 1720–1723; Pub. L. 110–315, title IV, § 462, Aug. 14, 2008, 122 Stat. 3266; Pub. L. 111–39, title IV, § 405(1), July 1, 2009, 123 Stat. 1947.)

PRIOR PROVISIONS

A prior section 1087bb, Pub. L. 89–329, title IV, § 462, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 273; amended Pub. L. 96–374, title IV, § 448(a), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1443, 1503, provided for apportionment of appropriations among States, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2009—Subsec. (a)(1)(A). Pub. L. 111–39 added subpar. (A) and struck out former subpar. (A), resulting in text identical to that after execution of the amendment by Pub. L. 105–244, § 462(a)(1)(A). See 1998 Amendment note below.

2008—Subsec. (c)(4)(D). Pub. L. 110–315 substituted "\$600" for "\$450".

1998—Subsec. (a)(1). Pub. L. 105–244, § 462(e)(1), inserted "cohort" before "default" in two places in concluding provisions.

Pub. L. 105–244, § 462(a)(2)(A)(ii), substituted "subsection (f)" for "subsection (g)" in concluding provisions.

Subsec. (a)(1)(A). Pub. L. 105–244, § 462(a)(1)(A), which directed the substitution of "the amount received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year)" for "the amount of the Federal capital contribution allocated to such institution under this part for fiscal year 1985", was executed by making the substitution for text which read "amount of Federal capital" rather than "amount of the Federal capital", to reflect the probable intent of Congress.

Subsec. (a)(1)(B). Pub. L. 105–244, § 462(a)(2)(A)(i), substituted "subsection (e)" for "subsection (f)".

Subsec. (a)(2)(A), (B). Pub. L. 105–244, § 462(a)(1)(B)(i), substituted "1999" for "1985" in introductory provisions.

Subsec. (a)(2)(C)(i). Pub. L. 105–244, § 462(a)(1)(B)(ii), substituted "2000" for "1986".

Subsec. (a)(2)(D). Pub. L. 105–244, § 462(e)(1), inserted "cohort" before "default" in two places in concluding provisions.

Pub. L. 105–244, § 462(a)(2)(A)(iv), substituted "subsection (f)" for "subsection (g)" in concluding provisions.

Subsec. (a)(2)(D)(ii). Pub. L. 105–244, § 462(a)(2)(A)(iii), substituted "subsection (e)" for "subsection (f)".

Subsec. (b). Pub. L. 105–244, § 462(a)(2)(H), redesignated subsec. (c) as (b).

Pub. L. 105–244, § 462(a)(2)(B), struck out heading and text of subsec. (b). Text read as follows: "From one-quarter of the remainder of the amount appropriated pursuant to section 1087aa(b) of this title for any fiscal year (after making the allocations required by subsection (a) of this section), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as—

"(1) the amount the eligible institution receives for such fiscal year under subsection (a) of this section, bears to

"(2) the amount all such institutions receive under such subsection (a) of this section."

Subsec. (b)(2). Pub. L. 105–244, § 462(e)(2), inserted "cohort" before "default" in two places in concluding provisions.

Subsec. (b)(3). Pub. L. 105–244, § 462(e)(2), inserted "cohort" before "default" in two places in concluding provisions.

Subsec. (c). Pub. L. 105–244, § 462(a)(2)(H), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1). Pub. L. 105–244, § 462(a)(2)(C), substituted "the remainder" for "three-quarters of the remainder".

Subsec. (c)(2). Pub. L. 105–244, § 462(a)(2)(D), substituted "subsection (f)" for "subsection (g)" in concluding provisions.

Subsec. (c)(3). Pub. L. 105–244, § 462(b), in introductory provisions, struck out "the Secretary, for academic

year 1988–1989, shall use the procedures employed for academic year 1986–1987, and, for any subsequent academic years,” after “professional students.”

Pub. L. 105–244, § 462(a)(2)(E)(iii), substituted “subsection (f)” for “subsection (g)” in concluding provisions.

Subsec. (c)(3)(A). Pub. L. 105–244, § 462(a)(2)(E)(i), substituted “subsection (c)” for “subsection (d)”.

Subsec. (c)(3)(C). Pub. L. 105–244, § 462(a)(2)(E)(ii), substituted “subsection (e)” for “subsection (f)”.

Subsec. (d). Pub. L. 105–244, § 462(a)(2)(H), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (d)(2). Pub. L. 105–244, § 462(e)(3), inserted “cohort” before “default”.

Subsec. (e). Pub. L. 105–244, § 462(c), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows:

“(1) For any fiscal year prior to fiscal year 1994, any institution which has a default rate which equals or exceeds 7.5 percent but does not exceed the maximum default rate applicable to the award year under subsection (g) of this section, the institution’s default penalty is a percentage equal to the complement of such default rate. For any institution which has a default rate that does not exceed 7.5 percent, the institution’s default penalty is equal to one.

“(2) For fiscal year 1994 and any succeeding fiscal year, any institution with a cohort default rate (as defined under subsection (h) of this section) which—

“(A) equals or exceeds 15 percent, shall establish a default reduction plan pursuant to regulations issued by the Secretary;

“(B) equals or exceeds 20 percent, but is less than 25 percent, shall have a default penalty of 0.9;

“(C) equals or exceeds 25 percent, but is less than 30 percent, shall have a default penalty of 0.7; and

“(D) equals or exceeds 30 percent shall have a default penalty of zero.”

Pub. L. 105–244, § 462(a)(2)(H), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 105–244, § 462(c), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows:

“(1) For award years 1992 and 1993, the applicable maximum default rate is 15 percent.

“(2) For award year 1994 and subsequent years, the maximum cohort default rate is 30 percent.”

Pub. L. 105–244, § 462(a)(2)(H), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 105–244, § 462(d)(1), inserted heading and struck out former heading.

Pub. L. 105–244, § 462(a)(2)(H), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Subsec. (g)(1). Pub. L. 105–244, § 462(d)(1), (2), redesignated par. (3) as (1), substituted “The term” for “For award year 1994 and any succeeding award year, the term” in subpar. (A), and struck out former par. (1) which read as follows: “For any award year prior to award year 1994, for the purpose of this section, the default rate is computed by dividing—

“(A) the total principal amount of defaulted loans;

by
 “(B) the total principal amount of loans made under this part, less the principal amount of all loans made to borrowers who are eligible for deferment under section 1087dd(c)(2)(A)(i) of this title or are in a grace period preceding repayment.”

Subsec. (g)(1)(B). Pub. L. 105–244, § 462(d)(3)(A), (B), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “In determining the number of students who default before the end of such award year, the Secretary shall, in calculating the cohort default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate.”

Subsec. (g)(1)(C), (D). Pub. L. 105–244, § 462(d)(3)(B), redesignated subpars. (D) and (F) as (C) and (D), respectively. Former subpar. (C) redesignated (B).

Subsec. (g)(1)(E). Pub. L. 105–244, § 462(d)(3)(A), (C), added subpar. (E) and struck out former subpar. (E)

which read as follows: “Any loan that is in default but on which the borrower has made satisfactory arrangements to resume payment or any loan which has been rehabilitated before the end of such following award year is not considered as in default for purposes of this subsection.”

Subsec. (g)(1)(F). Pub. L. 105–244, § 462(d)(3)(B), (e)(4), redesignated subpar. (G) as (F) and inserted “cohort” before “default”. Former subpar. (F) redesignated (D).

Subsec. (g)(1)(G). Pub. L. 105–244, § 462(d)(3)(B), redesignated subpar. (G) as (F).

Subsec. (g)(2). Pub. L. 105–244, § 462(d)(4), added par. (2).

Pub. L. 105–244, § 462(d)(1), struck out par. (2) which read as follows: “For the purpose of paragraph (1)(A), the total principal amount of defaulted loans is equal to the total amount borrowed under loans that have reached repayment status and that are in default, minus—

“(A) amounts that have been repaid or cancelled on such loans;

“(B) loans discharged in bankruptcy;

“(C) loans referred or assigned to the Secretary for collection under paragraph (5)(A), (5)(B)(i), or (6) of section 1087cc(a) of this title; and

“(D) loans that are in default but on which the borrowers have made satisfactory arrangements to resume payment.”

Subsec. (g)(3). Pub. L. 105–244, § 462(d)(2), redesignated par. (3) as (1).

Subsec. (g)(4). Pub. L. 105–244, § 462(d)(4), struck out par. (4) which read as follows: “A loan shall be considered to be in default—

“(A) 240 days (in the case of a loan repayable monthly), or

“(B) 270 days (in the case of a loan repayable quarterly), after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note,

after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note.”

Subsecs. (h), (i). Pub. L. 105–244, § 462(a)(2)(H), redesignated subsecs. (i) and (j) as (h) and (i), respectively. Former subsec. (h) redesignated (g).

Subsec. (j). Pub. L. 105–244, § 462(a)(2)(H), redesignated subsec. (j) as (i).

Subsec. (j)(1)(B)(i). Pub. L. 105–244, § 462(a)(2)(F), substituted “1999” for “1985”.

Subsec. (j)(2)(A)(i). Pub. L. 105–244, § 462(a)(2)(G)(i), substituted “subsection (b)(3)” for “paragraph (3) of subsection (c)”.

Subsec. (j)(2)(B). Pub. L. 105–244, § 462(a)(2)(G)(ii), substituted “subsection (b)” for “subsection (c)”.

1993—Subsec. (a)(1), (2)(D). Pub. L. 103–208, § 2(f)(1), substituted “if the institution has” for “if the institution which has” in closing provisions.

Subsec. (d)(4)(C). Pub. L. 103–208, § 2(f)(2), substituted “150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college” for “three-fourths in the Pell Grant family size offset”.

Subsecs. (e)(2), (h)(4)(B). Pub. L. 103–208, § 2(f)(3), (4), realigned margins.

1992—Subsec. (a)(1)(A). Pub. L. 102–325, § 462(a), substituted “allocated to such institution” for “such institution received”.

Subsec. (e). Pub. L. 102–325, § 462(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (f). Pub. L. 102–325, § 462(c), substituted “default reduction and default penalties” for “Default penalty” in heading and amended text generally. Prior to amendment, text read as follows: “For any institution which has a default rate which equals or exceeds 7.5 percent but does not exceed the maximum default rate applicable to the award year under subsection (g) of this section, the institution’s default penalty is a percentage equal to the complement of such default rate. For any institution which has a default rate that does

not exceed 7.5 percent, the institution's default penalty is equal to one."

Subsec. (g). Pub. L. 102-325, § 462(d), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows:

"(1) For award years 1988, 1989, and 1990, the applicable maximum default rate is 20 percent.

"(2) For award year 1991 and subsequent years, the applicable maximum default rate is 15 percent."

Subsec. (h). Pub. L. 102-325, § 462(e), substituted "Definitions of default rate and cohort default rate" for "Definition of default rate" in heading, in par. (1) substituted "For any award year prior to award year 1994, for the purpose" for "For the purpose", added par. (3), redesignated former par. (3) as (4), substituted "240" for "120" in par. (4)(A), and amended par. (4)(B) generally. Prior to amendment, par. (4)(B) read as follows: "180 days (in the case of a loan repayable quarterly)."

Subsec. (j). Pub. L. 102-325, § 462(f), amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: "If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions."

1987—Subsec. (a)(1)(A). Pub. L. 100-50, § 13(a), amended subpar. (A) generally, substituting "of Federal capital contribution such institution received" for "such institution expended".

Subsec. (d)(3), (4). Pub. L. 100-50, § 13(b), redesignated par. (3), defining "average cost of attendance" and calculating average undergraduate and graduate and professional tuition and fees, standard living expenses, and allowance for books and supplies, as (4).

Subsec. (e). Pub. L. 100-50, § 13(c), struck out "; cash on hand" after "collections" in heading.

Subsec. (f). Pub. L. 100-50, § 13(d), substituted "subsection (g) of this section" for "paragraph (2)".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-244, title IV, § 462(a)(3), Oct. 7, 1998, 112 Stat. 1721, provided that: "The amendments made by this subsection [amending this section] shall apply with respect to allocations of amounts appropriated pursuant to section 461(b) [20 U.S.C. 1087aa(b)] for fiscal year 2000 or any succeeding fiscal year."

Amendment by section 462(b)-(e) of Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section applicable with respect to academic year 1988-1989 and succeeding academic years, see section 405(b) of Pub. L. 99-498, as amended, set out as a note under section 1087dd of this title.

§ 1087cc. Agreements with institutions of higher education

(a) Contents of agreements

An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall—

(1) provide for the establishment and maintenance of a student loan fund for the purpose of this part;

(2) provide for the deposit in such fund of—

(A) Federal capital contributions from funds appropriated under section 1087aa of this title;

(B) a capital contribution by an institution in an amount equal to one-third of the Federal capital contributions described in subparagraph (A);

(C) collections of principal and interest on student loans made from deposited funds;

(D) charges collected pursuant to regulations under section 1087dd(c)(1)(H) of this title; and

(E) any other earnings of the funds;

(3) provide that such student loan fund shall be used only for—

(A) loans to students, in accordance with the provisions of this part;

(B) administrative expenses, as provided in subsection (b) of this section;

(C) capital distributions, as provided in section 1087ff of this title; and

(D) costs of litigation, and other collection costs agreed to by the Secretary in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations under section 1087dd(c)(1)(H) of this title;

(4) provide that where a note or written agreement evidencing a loan has been in default despite due diligence on the part of the institution in attempting collection thereon—

(A) if the institution has knowingly failed to maintain an acceptable collection record with respect to such loan, as determined by the Secretary in accordance with criteria established by regulation, the Secretary may—

(i) require the institution to assign such note or agreement to the Secretary, without recompense; and

(ii) apportion any sums collected on such a loan, less an amount not to exceed 30 percent of any sums collected to cover the Secretary's collection costs, among other institutions in accordance with section 1087bb of this title; or

(B) if the institution is not one described in subparagraph (A), the Secretary may allow such institution to refer such note or agreement to the Secretary, without recompense, except that, once every six months, any sums collected on such a loan (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) shall be repaid to such institution and treated as an additional capital contribution under section 1087bb of this title;

(5) provide that, if an institution of higher education determines not to service and col-

lect student loans made available from funds under this part, the institution will assign, at the beginning of the repayment period, notes or evidence of obligations of student loans made from such funds to the Secretary and the Secretary shall apportion any sums collected on such notes or obligations (less an amount not to exceed 30 percent of any such sums collected to cover that Secretary's collection costs) among other institutions in accordance with section 1087bb of this title;

(6) provide that, notwithstanding any other provision of law, the Secretary will provide to the institution any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived;

(7) provide assurances that the institution will comply with the provisions of section 1087cc-1 of this title;

(8) provide that the institution of higher education will make loans first to students with exceptional need; and

(9) include such other reasonable provisions as may be necessary to protect the United States from unreasonable risk of loss and as are agreed to by the Secretary and the institution, except that nothing in this paragraph shall be construed to permit the Secretary to require the assignment of loans to the Secretary other than as is provided for in paragraphs (4) and (5).

(b) Administrative expenses

An institution which has entered into an agreement under subsection (a) of this section shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Such payment shall be made in accordance with section 1096 of this title.

(c) Cooperative agreements with consumer reporting agencies

(1) For the purpose of promoting responsible repayment of loans made pursuant to this part, the Secretary and each institution of higher education participating in the program under this part shall enter into cooperative agreements with consumer reporting agencies to provide for the exchange of information concerning student borrowers concerning whom the Secretary has received a referral pursuant to section 1087gg of this title and regarding loans held by the Secretary or an institution.

(2) Each cooperative agreement made pursuant to paragraph (1) shall be made in accordance with the requirements of section 1080a of this title except that such agreement shall provide for the disclosure by the Secretary or an institution, as the case may be, to such consumer reporting agencies, with respect to any loan held by the Secretary or the institution, respectively, of—

(A) the date of disbursement and the amount of such loans made to any borrower under this part at the time of disbursement of the loan;

(B) information concerning the repayment and collection of any such loan, including in-

formation concerning the status of such loan; and

(C) the date of cancellation of the note upon completion of repayment by the borrower of any such loan, or upon cancellation or discharge of the borrower's obligation on the loan for any reason.

(3) Notwithstanding paragraphs (4) and (5) of subsection (a) of section 1681c of title 15, a consumer reporting agency may make a report containing information received from the Secretary or an institution regarding the status of a borrower's account on a loan made under this part until the loan is paid in full.

(4)(A) Except as provided in subparagraph (B), an institution of higher education, after consultation with the Secretary and pursuant to the agreements entered into under paragraph (1), shall disclose at least annually to any consumer reporting agency with which the Secretary has such an agreement the information set forth in paragraph (2), and shall disclose promptly to such consumer reporting agency any changes to the information previously disclosed.

(B) The Secretary may promulgate regulations establishing criteria under which an institution of higher education may cease reporting the information described in paragraph (2) before a loan is paid in full.

(5) Each institution of higher education shall notify the appropriate consumer reporting agencies whenever a borrower of a loan that is made and held by the institution and that is in default makes 6 consecutive monthly payments on such loan, for the purpose of encouraging such consumer reporting agencies to update the status of information maintained with respect to that borrower.

(d) Limitation on use of interest bearing accounts

In carrying out the provisions of subsection (a)(9) of this section, the Secretary may not require that any collection agency, collection attorney, or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts, unless such agency, attorney, or servicer holds such amounts for more than 45 days.

(e) Special due diligence rule

In carrying out the provisions of subsection (a)(5)¹ of this section relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part.

(Pub. L. 89-329, title IV, § 463, as added Pub. L. 99-498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1444; amended Pub. L. 100-50, § 13(e), (f), June 3, 1987, 101 Stat. 349; Pub. L. 102-325, title IV, § 463(a), (b), July 23, 1992, 106 Stat. 579; Pub. L. 103-208, § 2(f)(5)-(7), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 105-244, title IV, § 463, Oct. 7, 1998, 112 Stat. 1724; Pub. L. 110-315, title IV, §§ 432(b)(5), 463, Aug. 14, 2008, 122 Stat. 3246, 3266; Pub. L. 111-39, title IV, § 405(2), July 1, 2009, 123 Stat. 1947.)

REFERENCES IN TEXT

Subsection (a)(5) of this section relating to due diligence, referred to in subsec. (e), was redesignated sub-

sec. (a)(4), by Pub. L. 105-244, title IV, § 463(a)(3), Oct. 7, 1998, 112 Stat. 1724.

PRIOR PROVISIONS

A prior section 1087cc, Pub. L. 89-329, title IV, § 463, as added Pub. L. 92-318, title I, § 137(b), June 23, 1972, 86 Stat. 274; amended Pub. L. 94-482, title I, § 130(c), Oct. 12, 1976, 90 Stat. 2146; Pub. L. 96-374, title IV, §§ 442(b)(1)-(4), 445(a), (b)(1), 447(a), 448(b), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1439, 1440, 1442, 1443, 1503; Pub. L. 99-272, title XVI, §§ 16025, 16026, Apr. 7, 1986, 100 Stat. 352, 353, related to agreements with institutions of higher education, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2009—Subsec. (c)(2)(A). Pub. L. 111-39, § 405(2)(A)(i), realigned margins.

Subsec. (c)(2)(B). Pub. L. 111-39, § 405(2)(A)(ii), added subpar. (B) and struck out former subpar. (B), resulting in text identical to that after execution of the amendment by Pub. L. 105-244, § 463(b)(2)(C). See 1998 Amendment note below.

Subsec. (c)(3). Pub. L. 111-39, § 405(2)(B), substituted “and (5)” for “and (6)” and made technical amendment to reference in original act which appears in text as reference to section 1681c of title 15.

2008—Subsec. (a)(4)(B). Pub. L. 110-315, § 463(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “if the institution is not one described in subparagraph (A), the Secretary may—

“(i) allow such institution to transfer its interest in such loan to the Secretary, for collection, and the Secretary may use any collections thereon (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary’s collection costs) to make allocations to institutions of additional capital contributions in accordance with section 1087bb of this title; or

“(ii) allow such institution to refer such note or agreement to the Secretary, without recompense, except that any sums collected on such a loan (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary’s collection costs) shall be repaid to such institution no later than 180 days after collection by the Secretary and treated as an additional capital contribution;”.

Subsec. (a)(9). Pub. L. 110-315, § 463(b), inserted “, except that nothing in this paragraph shall be construed to permit the Secretary to require the assignment of loans to the Secretary other than as is provided for in paragraphs (4) and (5)” before period.

Subsec. (c). Pub. L. 110-315, § 432(b)(5)(A), substituted “consumer reporting agencies” for “credit bureau organizations” in heading.

Subsec. (c)(1). Pub. L. 110-315, § 432(b)(5)(B), substituted “consumer reporting agencies” for “credit bureau organizations”.

Subsec. (c)(2). Pub. L. 110-315, § 432(b)(5)(C), substituted “such consumer reporting agencies” for “such organizations”.

Subsec. (c)(4)(A). Pub. L. 110-315, § 432(b)(5)(D), substituted “consumer reporting agency” for “credit bureau organization” in two places.

Subsec. (c)(5). Pub. L. 110-315, § 432(b)(5)(E), substituted “consumer reporting agencies” for “credit bureau organizations” and “such consumer reporting agencies” for “such organizations”.

1998—Subsec. (a)(2)(B). Pub. L. 105-244, § 463(a)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “a capital contribution—

“(i) by an institution that—

“(I) is granted permission by the Secretary to participate in an Expanded Lending Option under the program, and

“(II) has a default rate which does not exceed 7.5 percent for award year 1993-1994 and has a cohort default rate which does not exceed 15 percent for award year 1994-1995 or for any succeeding award year,

in an amount not less than the amount of the Federal capital contributions described in subparagraph (A); or

“(ii) by any other institution, in an amount not less than three-seventeenths of such Federal capital contribution in fiscal year 1993, and one-third of such Federal capital contribution in each of the succeeding fiscal years, of the amount of the Federal capital contributions described in subparagraph (A);”.

Subsec. (a)(4) to (10). Pub. L. 105-244, § 463(a)(2), (3), redesignated pars. (5) to (10) as (4) to (9), respectively, and struck out former par. (4) which read as follows: “provide that where a note or written agreement evidencing a note has been in default for (A) 120 days, in the case of a loan which is repayable in monthly installments, or (B) 180 days, in the case of a loan which is repayable in less frequent installments, notice of such default shall be given to the Secretary in an annual report describing the total number of loans from such fund which are in such default;”.

Subsec. (c)(1). Pub. L. 105-244, § 463(b)(1), substituted “the Secretary and each institution of higher education participating in the program under this part shall” for “the Secretary shall” and inserted “and regarding loans held by the Secretary or an institution” after “section 1087gg of this title”.

Subsec. (c)(2). Pub. L. 105-244, § 463(b)(2)(A), in introductory provisions, substituted “by the Secretary or an institution, as the case may be, to such organizations, with respect to any loan held by the Secretary or the institution, respectively, of—” for “by the Secretary to such organizations, with respect to any loan for which the Secretary is responsible, of—”.

Subsec. (c)(2)(A). Pub. L. 105-244, § 463(b)(2)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the date of disbursement and the amount of any such loan;”.

Subsec. (c)(2)(B). Pub. L. 105-244, § 463(b)(2)(C), inserted “the repayment and” after “concerning” the first place appearing and substituted “status of such” for “status of any defaulted”.

Subsec. (c)(2)(C). Pub. L. 105-244, § 463(b)(2)(D), inserted “, or upon cancellation or discharge of the borrower’s obligation on the loan for any reason” before period at end.

Subsec. (c)(3). Pub. L. 105-244, § 463(b)(3)(A), in introductory provisions, inserted “or an institution” after “from the Secretary” and substituted “until the loan is paid in full.” for “until—”.

Subsec. (c)(3)(A), (B). Pub. L. 105-244, § 463(b)(3)(B), struck out subpars. (A) and (B) which read as follows: “(A) 7 years from the date on which the Secretary accepted an assignment or referral of a loan, or

“(B) 7 years from the date the Secretary first reports the account to a consumer reporting agency.”

Subsec. (c)(4). Pub. L. 105-244, § 463(b)(4), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “Each institution of higher education, after consultation with the Secretary and pursuant to the agreements entered into under paragraph (1), shall disclose at least annually to any credit bureau organization with which the Secretary has such an agreement—

“(A) the amount of loans made to any borrower under this part at the time of the disbursement of the loan; and

“(B) the information set forth in section 1080a(a) of this title.”

Subsec. (c)(5). Pub. L. 105-244, § 463(b)(4), added par. (5).

Subsec. (d). Pub. L. 105-244, § 463(c), substituted “subsection (a)(9)” for “subsection (a)(10)”.

1993—Subsec. (a)(2)(B)(i)(II). Pub. L. 103-208, § 2(f)(5), substituted “7.5 percent for award year 1993-1994 and has a cohort default rate which does not exceed 15 percent for award year 1994-1995 or for any succeeding award year” for “7.5 percent”.

Subsec. (c)(4). Pub. L. 103-208, § 2(f)(6), substituted “shall disclose at least annually” for “shall disclose” in introductory provisions.

Subsecs. (d), (e). Pub. L. 103-208, § 2(f)(7), added subsecs. (d) and (e).

1992—Subsec. (a)(2)(B). Pub. L. 102-325, § 463(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “a capital contribution by such institution in an amount equal to not less than one-ninth of the amount of the Federal capital contributions described in subparagraph (A);”.

Subsec. (c)(3)(B). Pub. L. 102-325, § 463(b)(1), struck out “, if that account has not been previously reported by any other holder of the note” after “agency”.

Subsec. (c)(4). Pub. L. 102-325, § 463(b)(2), added par. (4).

1987—Subsec. (a)(4). Pub. L. 100-50, § 13(e), substituted “in an annual report” for “in a report” and struck out “, and made to the Secretary at least semiannually” after “in such default”.

Subsec. (b). Pub. L. 100-50, § 13(f), substituted “section 1096 of this title” for “section 1092 of this title”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective July 23, 1992, except that changes made in subsec. (a)(2)(B), relating to the matching of Federal capital contributions, applicable to funds provided for such program for award years beginning on or after July 1, 1993, see section 468 of Pub. L. 102-325, set out as a note under section 1087dd of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99-498, set out as a note under section 1001 of this title.

Subsection (a)(9) of this section applicable only to loans made for periods of enrollment beginning on or after July 1, 1987, see section 405(b) of Pub. L. 99-498, set out as a note under section 1087dd of this title.

§ 1087cc-1. Student loan information by eligible institutions

(a) Disclosure required prior to disbursement

Each institution of higher education shall, at or prior to the time such institution makes a loan to a student borrower which is made under this part, provide thorough and adequate loan information on such loan to the student borrower. Any disclosure required by this subsection may be made by an institution of higher education as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosures shall include—

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the principal amount of the loan;

(3) the amount of any charges collected by the institution at or prior to the disbursement of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

(4) the stated interest rate on the loan;

(5) the yearly and cumulative maximum amounts that may be borrowed;

(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

(7) a statement as to the minimum and maximum repayment term which the institution may impose, and the minimum monthly payment required by law and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or institutions to collect on a loan;

(8) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an estimate of the projected monthly payment, given such cumulative balance;

(9) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(10) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to the Department of Defense educational loan repayment program (10 U.S.C. 16302);

(11) a definition of default and the consequences to the borrower if the borrower defaults, together with a statement that the disbursement of, and the default on, a loan under this part, shall be reported to a consumer reporting agency;

(12) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

(13) an explanation of any cost the borrower may incur in the making or collection of the loan.

(b) Disclosure required prior to repayment

Each institution of higher education shall enter into an agreement with the Secretary under which the institution will, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower the information required under this subsection. Any disclosure required by this subsection may be made by an institution of higher education either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosures shall include—

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the scheduled date upon which the repayment period is to begin;

(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(8) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

(c) Costs and effects of disclosures

Such information shall be available without cost to the borrower. The failure of an eligible institution to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary to make payments with respect to such loan.

(Pub. L. 89-329, title IV, §463A, as added Pub. L. 99-498, title IV, §405(a), Oct. 17, 1986, 100 Stat. 1446; amended Pub. L. 100-50, §13(g), (h), June 3, 1987, 101 Stat. 349; Pub. L. 102-325, title IV, §463(c), July 23, 1992, 106 Stat. 579; Pub. L. 103-208, §2(f)(8), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 104-106, div. A, title XV, §1501(e)(4), Feb. 10, 1996, 110 Stat. 501; Pub. L. 110-315, title IV, §432(b)(6), Aug. 14, 2008, 122 Stat. 3246; Pub. L. 111-39, title IV, §405(3), July 1, 2009, 123 Stat. 1947.)

PRIOR PROVISIONS

A prior section 1087cc-1, Pub. L. 89-329, title IV, §463A, as added Pub. L. 96-374, title IV, §447(b), Oct. 3, 1980, 94 Stat. 1443; amended Pub. L. 97-301, §13, Oct. 13, 1982, 96 Stat. 1405; Pub. L. 98-79, §3(b), Aug. 15, 1983, 97 Stat. 478; Pub. L. 99-272, title XVI, §16027, Apr. 7, 1986, 100 Stat. 353, related to student loan information to be provided by institutions, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-39 struck out “, in order to carry out the provisions of section 1087cc(a)(8) of this title,” after “Each institution of higher education” in introductory provisions.

2008—Subsec. (a)(11). Pub. L. 110-315 substituted “consumer” for “credit bureau or credit”.

1996—Subsec. (a)(10). Pub. L. 104-106 substituted “(10 U.S.C. 16302)” for “(10 U.S.C. 2172)”.

1993—Subsecs. (d), (e). Pub. L. 103-208 struck out subsecs. (d) and (e), which read as follows:

“(d) LIMITATION ON USE OF INTEREST BEARING ACCOUNTS.—In carrying out the provisions of subsection (a)(10) of this section, the Secretary may not require that any collection agency, collection attorney, or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts, unless such agency, attorney, or servicer holds such amounts for more than 45 days.

“(e) SPECIAL DUE DILIGENCE RULE.—In carrying out the provisions of subsection (a)(5) of this section relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part.”

1992—Subsec. (a)(11). Pub. L. 102-325, §463(c)(1), substituted “together with a statement that the disbursement of, and the default on, a loan under this part, shall be” for “including a statement that the default may be”.

Subsecs. (d), (e). Pub. L. 102-325, §463(c)(2), added subsecs. (d) and (e).

1987—Subsec. (a)(8). Pub. L. 100-50, §13(g), added par. (8) and struck out former par. (8) which read as follows: “a statement of the total cumulative balance owed by the student to that institution, the projected level of indebtedness of the student based on a 2- or 4-year college career, and an estimate of the projected monthly repayment given the level of indebtedness over a 2-, 4-, or 5-year college career;”.

Subsec. (a)(10). Pub. L. 100-50, §13(h), substituted “the Department of Defense educational loan repayment program (10 U.S.C. 2172)” for “section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note)”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section applicable only to loans made for periods of enrollment beginning on or after July 1, 1987, see section 405(b) of Pub. L. 99-498, as amended, set out as a note under section 1087dd of this title.

§ 1087dd. Terms of loans

(a) Terms and conditions

(1) Loans from any student loan fund established pursuant to an agreement under section 1087cc of this title to any student by any institution shall, subject to such conditions, limitations, and requirements as the Secretary shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

(2)(A) Except as provided in paragraph (4), the total of loans made to a student in any academic year or its equivalent by an institution of higher education from a loan fund established pursuant to an agreement under this part shall not exceed—

(i) \$5,500, in the case of a student who has not successfully completed a program of undergraduate education; or

(ii) \$8,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary).

(B) Except as provided in paragraph (4), the aggregate unpaid principal amount for all loans made to a student by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

(i) \$60,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary, and including any loans from such funds made to such person before such person became a graduate or professional student);

(ii) \$27,500, in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree but who has not completed the work necessary for such a degree (determined under regulations issued by the Secretary), and including any loans from such funds made to such person before such person became such a student; and

(iii) \$11,000, in the case of any other student.

(3) Regulations of the Secretary under paragraph (1) shall be designed to prevent the impairment of the capital student loan funds to the maximum extent practicable and with a view toward the objective of enabling the student to complete his course of study.

(4) In the case of a program of study abroad that is approved for credit by the home institution at which a student is enrolled and that has reasonable costs in excess of the home institution's budget, the annual and aggregate loan limits for the student may exceed the amounts described in paragraphs (2)(A) and (2)(B) by 20 percent.

(b) Demonstration of need and eligibility required

(1) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with part E of this subchapter, who meets the requirements of section 1091 of this title, and who provides the institution with the student's drivers license number, if any, at the time of application for the loan. A student who is in default on a loan under this part shall not be eligible for an additional loan under this part unless such loan meets one of the conditions for exclusion under section 1087bb(g)(1)(E) of this title.

(2) If the institution's capital contribution under section 1087bb of this title is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution less than full time, or (B) independent students, then a reasonable portion of the loans made from the institution's student loan fund containing the contribution shall be made available to such students.

(c) Contents of loan agreement

(1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

(A) shall be evidenced by note or other written instrument which, except as provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, in equal installments (or, if the borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Secretary) payable quarterly, bimonthly, or monthly, at the option of the institution, over a period beginning nine months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Secretary, at least one-half the normal full-time academic workload, and ending 10 years and 9 months after such date except that such period may begin earlier than 9 months after such date upon the request of the borrower;

(B) shall include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the borrower;

(C)(i) may provide, at the option of the institution, in accordance with regulations of the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the student from a student loan fund assisted under this part shall be at a rate equal to not less than \$40 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than \$40 per month for a period of not more than one year where necessary to avoid hardship to the borrower, but without extending the 10-year maximum repayment period provided for in subparagraph (A) of this paragraph; and

(ii) may provide that the total payments by a borrower for a monthly or similar payment period with respect to the aggregate of all loans held by the institution may, when the amount of a monthly or other similar payment is not a multiple of \$5, be rounded to the next highest whole dollar amount that is a multiple of \$5;

(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 5 percent per year in the case of any loan made on or after October 1, 1981, except that no interest shall accrue (i) prior to the beginning date of repayment determined under paragraph (2)(A)(i), or (ii) during any period in which repayment is suspended by reason of paragraph (2);

(E) shall provide that the loan shall be made without security and without endorsement;

(F) shall provide that the liability to repay the loan shall be cancelled—

(i) upon the death of the borrower;

(ii) if the borrower becomes permanently and totally disabled as determined in accordance with regulations of the Secretary;

(iii) if the borrower is unable to engage in any substantial gainful activity by reason of any medically determinable physical or

mental impairment that can be expected to result in death, has lasted for a continuous period of not less than 60 months, or can be expected to last for a continuous period of not less than 60 months; or

(iv) if the borrower is determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected disability;

(G) shall provide that no note or evidence of obligation may be assigned by the lender, except upon the transfer of the borrower to another institution participating under this part (or, if not so participating, is eligible to do so and is approved by the Secretary for such purpose), to such institution, and except as necessary to carry out section 1087cc(a)(6)¹ of this title;

(H) pursuant to regulations of the Secretary, shall provide for an assessment of a charge with respect to the loan for failure of the borrower to pay all or part of an installment when due, which shall include the expenses reasonably incurred in attempting collection of the loan, to the extent permitted by the Secretary, except that no charge imposed under this subparagraph shall exceed 20 percent of the amount of the monthly payment of the borrower; and

(I) shall contain a notice of the system of disclosure of information concerning default on such loan to consumer reporting agencies under section 1087cc(c) of this title.

(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or loan made under this part while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

(iii) during which the borrower—

(I) is serving on active duty during a war or other military operation or national emergency; or

(II) is performing qualifying National Guard duty during a war or other military operation or national emergency,

and for the 180-day period following the demobilization date for the service described in subclause (I) or (II);

(iv) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 1085(o) of this title, has caused

or will cause the borrower to have an economic hardship; or

(v) during which the borrower is engaged in service described in section 1087ee(a)(2) of this title;

and provides that any such period shall not be included in determining the 10-year period described in subparagraph (A) of paragraph (1).

(B) No repayment of principal of, or interest on, any loan for any period described in subparagraph (A) shall begin until 6 months after the completion of such period.

(C) An individual with an outstanding loan balance who meets the eligibility criteria for a deferment described in subparagraph (A) as in effect on October 7, 1998, shall be eligible for deferment under this paragraph notwithstanding any contrary provision of the promissory note under which the loan or loans were made, and notwithstanding any amendment (or effective date provision relating to any amendment) to this section made prior to the date of such deferment.

(3)(A) The Secretary is authorized, when good cause is shown, to extend, in accordance with regulations, the 10-year maximum repayment period provided for in subparagraph (A) of paragraph (1) with respect to individual loans.

(B) Pursuant to uniform criteria established by the Secretary, the repayment period for any student borrower who during the repayment period is a low-income individual may be extended for a period not to exceed 10 years and the repayment schedule may be adjusted to reflect the income of that individual.

(4) The repayment period for a loan made under this part shall begin on the day immediately following the expiration of the period, specified in paragraph (1)(A), after the student ceases to carry the required academic workload, unless the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier point in time, and shall exclude any period of authorized deferment, forbearance, or cancellation.

(5) The institution may elect—

(A) to add the amount of any charge imposed under paragraph (1)(H) to the principal amount of the loan as of the first day after the day on which the installment was due and to notify the borrower of the assessment of the charge; or

(B) to make the amount of the charge payable to the institution not later than the due date of the next installment.

(6) Requests for deferment of repayment of loans under this part by students engaged in graduate or post-graduate fellowship-supported study (such as pursuant to a Fulbright grant) outside the United States shall be approved until completion of the period of the fellowship.

(7) There shall be excluded from the 9-month period that begins on the date on which a student ceases to carry at least one-half the normal full-time academic workload (as described in paragraph (1)(A)) any period not to exceed 3 years during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10 is called or ordered to active duty for a period of more than 30

¹ See References in Text note below.

days (as defined in section 101(d)(2) of such title). Such period of exclusion shall include the period necessary to resume enrollment at the borrower's next available regular enrollment period.

(d) Availability of loan fund to all eligible students

An agreement under this part for payment of Federal capital contributions shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

(e) Forbearance

(1) The Secretary shall ensure that, as documented in accordance with paragraph (2), an institution of higher education shall grant a borrower forbearance of principal and interest or principal only, renewable at 12-month intervals for a period not to exceed 3 years, on such terms as are otherwise consistent with the regulations issued by the Secretary and agreed upon in writing by the parties to the loan, if—

(A) the borrower's debt burden equals or exceeds 20 percent of such borrower's gross income;

(B) the institution determines that the borrower should qualify for forbearance for other reasons; or

(C) the borrower is eligible for interest payments to be made on such loan for service in the Armed Forces under section 2174 of title 10 and, pursuant to that eligibility, the interest on such loan is being paid under subsection (j) of this section, except that the form of a forbearance under this paragraph shall be a temporary cessation of all payments on the loan other than payments of interest on the loan that are made under subsection (j) of this section.

(2) For the purpose of paragraph (1), the terms of forbearance agreed to by the parties shall be documented by—

(A) confirming the agreement of the borrower by notice to the borrower from the institution of higher education; and

(B) recording the terms in the borrower's file.

(f) Special repayment rule authority

(1) Subject to such restrictions as the Secretary may prescribe to protect the interest of the United States, in order to encourage repayment of loans made under this part which are in default, the Secretary may, in the agreement entered into under this part, authorize an institution of higher education to compromise on the repayment of such defaulted loans in accordance with paragraph (2). The Federal share of the compromise repayment shall bear the same relation to the institution's share of such compromise repayment as the Federal capital contribution to the institution's loan fund under this part bears to the institution's capital contribution to such fund.

(2) No compromise repayment of a defaulted loan as authorized by paragraph (1) may be made unless the student borrower pays—

(A) 90 percent of the loan under this part;

(B) the interest due on such loan; and
(C) any collection fees due on such loan;

in a lump sum payment.

(g) Discharge

(1) In general

If a student borrower who received a loan made under this part on or after January 1, 1986, is unable to complete the program in which such student is enrolled due to the closure of the institution, then the Secretary shall discharge the borrower's liability on the loan (including the interest and collection fees) and shall subsequently pursue any claim available to such borrower against the institution and the institution's affiliates and principals, or settle the loan obligation pursuant to the financial responsibility standards described in section 1099c(c) of this title.

(2) Assignment

A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund in an amount that does not exceed the amount discharged against the institution and the institution's affiliates and principals.

(3) Eligibility for additional assistance

The period during which a student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(4) Special rule

A borrower whose loan has been discharged pursuant to this subsection shall not be precluded, because of that discharge, from receiving additional grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 for which the borrower would be otherwise eligible (but for the default on the discharged loan). The amount discharged under this subsection shall be treated as an amount canceled under section 1087ee(a) of this title.

(5) Reporting

The Secretary or institution, as the case may be, shall report to consumer reporting agencies with respect to loans that have been discharged pursuant to this subsection.

(h) Rehabilitation of loans

(1) Rehabilitation

(A) In general

If the borrower of a loan made under this part who has defaulted on the loan makes 9 on-time, consecutive, monthly payments of amounts owed on the loan, as determined by the institution, or by the Secretary in the case of a loan held by the Secretary, the loan shall be considered rehabilitated, and the institution that made that loan (or the Secretary, in the case of a loan held by the Secretary) shall request that any consumer reporting agency to which the default was reported remove the default from the borrower's credit history.

(B) Comparable conditions

As long as the borrower continues to make scheduled repayments on a loan rehabilitated under this paragraph, the rehabilitated loan shall be subject to the same terms and conditions, and qualify for the same benefits and privileges, as other loans made under this part.

(C) Additional assistance

The borrower of a rehabilitated loan shall not be precluded by section 1091 of this title from receiving additional grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 (for which the borrower is otherwise eligible) on the basis of defaulting on the loan prior to such rehabilitation.

(D) Limitations

A borrower only once may obtain the benefit of this paragraph with respect to rehabilitating a loan under this part.

(2) Restoration of eligibility

If the borrower of a loan made under this part who has defaulted on that loan makes 6 ontime, consecutive, monthly payments of amounts owed on such loan, the borrower's eligibility for grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 shall be restored to the extent that the borrower is otherwise eligible. A borrower only once may obtain the benefit of this paragraph with respect to restored eligibility.

(i) Incentive repayment program**(1) In general**

Each institution of higher education may establish, with the approval of the Secretary, an incentive repayment program designed to reduce default and to replenish student loan funds established under this part. Each such incentive repayment program may—

(A) offer a reduction of the interest rate on a loan on which the borrower has made 48 consecutive, monthly repayments, but in no event may the rate be reduced by more than 1 percent;

(B) provide for a discount on the balance owed on a loan on which the borrower pays the principal and interest in full prior to the end of the applicable repayment period, but in no event may the discount exceed 5 percent of the unpaid principal balance due on the loan at the time the early repayment is made; and

(C) include such other incentive repayment options as the institution determines will carry out the objectives of this subsection.

(2) Limitation

No incentive repayment option under an incentive repayment program authorized by this subsection may be paid for with Federal funds, including any Federal funds from the student loan fund, or with institutional funds from the student loan fund.

(j) Armed Forces student loan interest payment program**(1) Authority**

Using funds received by transfer to the Secretary under section 2174 of title 10 for the payment of interest on a loan made under this part to a member of the Armed Forces, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

(2) Forbearance

During the period in which the Secretary is making payments on a loan under paragraph (1), the institution of higher education shall grant the borrower forbearance in accordance with subsection (e)(1)(C).

(k) Additional safeguards

The Secretary may develop such additional safeguards as the Secretary determines necessary to prevent fraud and abuse in the cancellation of liability under subsection (c)(1)(F). Notwithstanding subsection (c)(1)(F), the Secretary may promulgate regulations to resume collection on loans cancelled under subsection (c)(1)(F) in any case in which—

(1) a borrower received a cancellation of liability under subsection (c)(1)(F) and after the cancellation the borrower—

(A) receives a loan made, insured, or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42; or

(B) has earned income in excess of the poverty line; or

(2) the Secretary determines necessary.

(Pub. L. 89-329, title IV, § 464, as added Pub. L. 99-498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1448; amended Pub. L. 100-50, § 13(i), June 3, 1987, 101 Stat. 349; Pub. L. 100-369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 101-239, title II, § 2002(a)(3), Dec. 19, 1989, 103 Stat. 2111; Pub. L. 102-325, title IV, § 464, July 23, 1992, 106 Stat. 580; Pub. L. 103-208, § 2(f)(9)-(11), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 105-244, title IV, § 464, Oct. 7, 1998, 112 Stat. 1725; Pub. L. 107-314, div. A, title VI, § 651(d), Dec. 2, 2002, 116 Stat. 2580; Pub. L. 109-171, title VIII, § 8007(c), Feb. 8, 2006, 120 Stat. 160; Pub. L. 110-84, title II, § 202(c), Sept. 27, 2007, 121 Stat. 792; Pub. L. 110-315, title IV, §§ 432(b)(7), 464(a), (b)(1), (c), Aug. 14, 2008, 122 Stat. 3246, 3266, 3267; Pub. L. 111-39, title IV, § 405(4), July 1, 2009, 123 Stat. 1947.)

REFERENCES IN TEXT

Section 1087cc(a) of this title, referred to in subsec. (c)(1)(G), was amended by Pub. L. 105-244, title IV, § 463(a)(3), Oct. 7, 1998, 112 Stat. 1724, which redesignated pars. (6) and (7) as (5) and (6), respectively.

PRIOR PROVISIONS

A prior section 1087dd, Pub. L. 89-329, title IV, § 464, as added Pub. L. 92-318, title I, § 137(b), June 23, 1972, 86 Stat. 275; amended Pub. L. 94-482, title I, § 130(d)-(g)(1), Oct. 12, 1976, 90 Stat. 2147; Pub. L. 95-43, § 1(a)(39), June 15, 1977, 91 Stat. 217; Pub. L. 96-374, title IV, §§ 442(b)(5), 443, 444, 445(b)(2), 446, 448(c), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1440-1443, 1503; Pub. L. 97-35, title V, § 539, Aug. 13, 1981, 95 Stat. 458; Pub. L. 99-272, title XVI,

§ 16028, Apr. 7, 1986, 100 Stat. 353, related to terms and conditions of loans, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2009—Subsec. (c). Pub. L. 111-39, § 405(4)(A), substituted “(i)” for “(I)” and “(ii)” for “(II)” in par. (1)(D) and realigned margins in par. (2)(A)(iii).

Subsec. (g)(5). Pub. L. 111-39, § 405(4)(B), substituted “consumer reporting agencies” for “credit bureaus”.

2008—Subsec. (a)(2)(A). Pub. L. 110-315, § 464(a)(1), substituted “\$5,500” for “\$4,000” in cl. (i) and “\$8,000” for “\$6,000” in cl. (ii).

Subsec. (a)(2)(B). Pub. L. 110-315, § 464(a)(2), substituted “\$60,000” for “\$40,000” in cl. (i), “\$27,500” for “\$20,000” in cl. (ii), and “\$11,000” for “\$8,000” in cl. (iii).

Subsec. (c)(1)(F). Pub. L. 110-315, § 464(b)(1)(A), substituted “cancelled—” and cls. (i) to (iv) for “canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Secretary.”

Subsec. (c)(1)(I). Pub. L. 110-315, § 432(b)(7)(A), substituted “consumer reporting agencies” for “credit bureau organizations”.

Subsec. (e). Pub. L. 110-315, § 464(c)(1), substituted “, as documented in accordance with paragraph (2),” for “, upon written request,” in introductory provisions, designated existing text as par. (1), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and added par. (2).

Subsec. (h)(1)(A). Pub. L. 110-315, §§ 432(b)(7)(B), 464(c)(2), substituted “9 on-time” for “12 ontime” and “consumer” for “credit bureau organization or credit”.

Subsec. (j)(2). Pub. L. 110-315, § 464(c)(3), substituted “subsection (e)(1)(C)” for “subsection (e)(3)”.

Subsec. (k). Pub. L. 110-315, § 464(b)(1)(B), added subsec. (k).

2007—Subsec. (c)(2)(A)(iii). Pub. L. 110-84 struck out “not in excess of 3 years” before “during” in introductory provisions, substituted comma for semicolon at end of subcl. (II), and inserted concluding provisions.

2006—Subsec. (c)(2)(A)(iii) to (v). Pub. L. 109-171 added cl. (iii) and redesignated former cls. (iii) and (iv) as (iv) and (v), respectively.

2002—Subsec. (e)(3). Pub. L. 107-314, § 651(d)(1), added par. (3).

Subsec. (j). Pub. L. 107-314, § 651(d)(2), added subsec. (j).

1998—Subsec. (a)(2). Pub. L. 105-244, § 464(a), amended par. (2) generally. Prior to amendment, par. (2) related to limitations on the total of loans that could be made to a student by an institution of higher education from a loan fund established pursuant to an agreement under this part.

Subsec. (b)(1). Pub. L. 105-244, § 464(b)(1), inserted at end “A student who is in default on a loan under this part shall not be eligible for an additional loan under this part unless such loan meets one of the conditions for exclusion under section 1087bb(g)(1)(E) of this title.”

Subsec. (b)(2). Pub. L. 105-244, § 464(b)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “If the institution’s capital contribution under section 1087bb of this title is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution less than full time, or (B) independent students, and if the total financial need of all such less than full-time and independent students at the institution exceeds 5 percent of the total financial need of all students at such institution, then at least 5 percent of such loans shall be made available to such less than full-time and independent students.”

Subsec. (c)(1)(D). Pub. L. 105-244, § 464(c)(1), struck out “(i) 3 percent per year, (ii) 4 percent per year in the case of any loan made on or after July 1, 1981, or (iii)” after “at the rate of” and substituted “paragraph (2)(A)(i)” for “subparagraph (A)(i)”.

Subsec. (c)(2)(A). Pub. L. 105-244, § 464(c)(2), substituted “subparagraph (A) of paragraph (1)” for “subparagraph (B)” in concluding provisions.

Subsec. (c)(2)(C). Pub. L. 105-244, § 464(c)(3), added subpar. (C).

Subsec. (c)(7). Pub. L. 105-244, § 464(c)(4), added par. (7).

Subsecs. (g) to (i). Pub. L. 105-244, § 464(d), added subsecs. (g) to (i).

1993—Subsec. (c)(2)(B). Pub. L. 103-208, § 2(f)(9), substituted “repayment of” for “repayment or”.

Subsec. (c)(6). Pub. L. 103-208, § 2(f)(10), substituted “Fulbright” for “Fullbright”.

Subsec. (e). Pub. L. 103-208, § 2(f)(11), substituted “principal” for “principle” before “only”.

1992—Subsec. (a)(2). Pub. L. 102-325, § 464(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The aggregate of the loans for all years made by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

“(A) \$18,000 in the case of any graduate or professional student (as defined by regulations of the Secretary, and including any loans from such funds made to such person before he became a graduate or professional student);

“(B) \$9,000 in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor’s degree, but who has not completed the work necessary for such a degree (determined under regulations of the Secretary, and including any loans from such funds made to such person before he became such a student); and

“(C) \$4,500 in the case of any other student.”

Subsec. (a)(4). Pub. L. 102-325, § 464(b), added par. (4).

Subsec. (b)(1). Pub. L. 102-325, § 464(c)(1), substituted “this subchapter, who meets the requirements of section 1091 of this title, and who provides the institution with the student’s drivers license number, if any, at the time of application for the loan” for “this subchapter and who meets the requirements of section 1091 of this title”.

Subsec. (b)(2). Pub. L. 102-325, § 464(c)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “If the institution’s Federal capital contribution under section 1087bb of this title is directly or indirectly based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the loans under this part shall be made available to such students.”

Subsec. (c)(1)(C)(i). Pub. L. 102-325, § 464(d), substituted “\$40” for “\$30” in two places.

Subsec. (c)(1)(E). Pub. L. 102-325, § 464(e), struck out “unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law, create a binding obligation,” before “shall provide”.

Subsec. (c)(2)(A). Pub. L. 102-325, § 464(f), amended subpar. (A) generally, revising and restating as cls. (i) to (iv) provisions formerly contained in cls. (i) to (ix).

Subsec. (c)(2)(B), (C). Pub. L. 102-325, § 464(g)(1), added subpar. (B) and struck out former subpars. (B) and (C) which read as follows:

“(B) Any period during which repayment is deferred under subparagraph (A) shall not be included in computing the 10-year maximum period provided for in subparagraph (A) of paragraph (1).

“(C) No repayment of principal of, or interest on, any loan for any period of study, service, or disability described in subparagraph (A) or any combination thereof shall begin until 6 months after the completion of such period of study, service, disability, or combination thereof.”

Subsec. (c)(4) to (6). Pub. L. 102-325, § 464(g)(2)–(4), added par. (4), redesignated former par. (4) as (5), and added par. (6).

Subsecs. (e), (f). Pub. L. 102-325, § 464(h), added subsecs. (e) and (f).

1989—Subsec. (c)(2)(A)(i). Pub. L. 101-239 inserted before semicolon at end “, except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under section 1078-2 or 1078-3 of this title), while serving in a medical internship or residency program”.

1988—Subsec. (c)(2)(A)(v). Pub. L. 100-369 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1987—Subsec. (c)(2)(A)(vi). Pub. L. 100-50 inserted “or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training” before semicolon at end.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-315, title IV, § 464(b)(2), Aug. 14, 2008, 122 Stat. 3267, provided that: “The amendments made by paragraph (1) [amending this section] shall take effect on July 1, 2008.”

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-84 effective Oct. 1, 2007, see section 1(c) of Pub. L. 110-84, set out as a note under section 1070a of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109-171, set out as a note under section 1002 of this title.

Amendment by Pub. L. 109-171 applicable with respect to all loans under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.), see section 8007(f) of Pub. L. 109-171, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-314 applicable with respect to interest, and any special allowance under section 1087-1 of this title, that accrue for months beginning on or after Oct. 1, 2003, on student loans described in section 2174(c) of Title 10, Armed Forces, that were made before, on, or after such date to members of the Armed Forces who are on active duty (as defined in section 101(d) of Title 10) on or after that date, see section 651(e) of Pub. L. 107-314, set out as an Effective Date note under section 2174 of Title 10.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 468 of Pub. L. 102-325, as amended by Pub. L. 102-394, title III, § 307(a), Oct. 6, 1992, 106 Stat. 1820, provided that: “The changes made in part E of title IV of the Act [20 U.S.C. 1087aa et seq.] by the amendments made by this part [part E (§§ 461-468) of title IV of Pub. L. 102-325, enacting section 1087ii of this title and amending sections 1087aa to 1087gg of this title] shall take effect on the date of enactment of this Act [July 23, 1992], except that—

“(1) the changes in section 463(a)(2)(B) [20 U.S.C. 1087cc(a)(2)(B)], relating to the matching of Federal capital contributions, shall apply to funds provided

for such program for the award years beginning on or after July 1, 1993;

“(2) the changes made in section 464(c)(1)(C) [20 U.S.C. 1087dd(c)(1)(C)], relating to minimum monthly payments shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992, to an individual who, on the date the loan is made, has no outstanding balance of principal or interest owing on any loan made under part E of title IV of the Act;

“(3) the changes made in section 464(c)(2)(A), relating to deferments, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993;

“(4) the changes made in section 467 [20 U.S.C. 1087gg], relating to the creation of a Perkins Loan Revolving Fund, shall take effect on September 15, 1997; and

“(5) the changes in section 464(a)(2)(A), (B) and (C) shall not apply to any loan made for the award year beginning July 1, 1992 provided that the loan does not result in a violation of section 464(a)(2)(A), (B) and (C) as in effect prior to such date of enactment.”

[Pub. L. 102-394, title III, § 307(b), Oct. 6, 1992, 106 Stat. 1820, provided that: “The amendments made by subsection (a) [amending section 468 of Pub. L. 102-325, set out above] shall take effect as if enacted on July 23, 1992.”]

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to any loan made, insured, or guaranteed under this part or part B of this subchapter, including a loan made before Dec. 19, 1989, and amendment effective Jan. 1, 1990, but inapplicable with respect to any portion of a period of deferment granted to a borrower under section 1077(a)(2)(C)(i), 1078(b)(1)(M)(i), or 1087dd(c)(2)(A)(i) of this title for service in a medical internship or residency program completed prior to Dec. 19, 1989, see section 2002(a)(4) of Pub. L. 101-239, set out as a note under section 1077 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99-498, set out as a note under section 1001 of this title.

Section 405(b) of Pub. L. 99-498, as amended by Pub. L. 100-50, § 22(d), June 3, 1987, 101 Stat. 361, provided that:

“(1) Section 462 of the Act [20 U.S.C. 1087bb] shall apply with respect to academic year 1988-1989 and succeeding academic years.

“(2) The changes made in sections 464(c)(1)(A), 464(c)(2), and 465(a)(2)(E) of the Act [20 U.S.C. 1087dd(c)(1)(A), (2), 1087ee(a)(2)(E)] shall apply only to loans made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, to individuals who are new borrowers on that date.

“(3) Section 463(a)(9) and section 463A of the Act [20 U.S.C. 1087cc(a)(9), 1087cc-1] as amended by this section shall apply only to loans made for periods of enrollment beginning on or after July 1, 1987.

“(4) For the purpose of this subsection, the term ‘new borrower’ means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made under part E of title IV of the Act [this part].”

CONSTRUCTION OF 2006 AMENDMENT

Nothing in amendment by Pub. L. 109-171 to be construed to authorize any refunding of any repayment of a loan, see section 8007(e) of Pub. L. 109-171, set out as a note under section 1078 of this title.

§ 1087ee. Cancellation of loans for certain public service

(a) Cancellation of percentage of debt based on years of qualifying service

(1) The percent specified in paragraph (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2).

(2) Loans shall be canceled under paragraph (1) for service—

(A) as a full-time teacher for service in an academic year (including such a teacher employed by an educational service agency)—

(i) in a public or other nonprofit private elementary school or secondary school, which, for the purpose of this paragraph and for that year—

(I) has been determined by the Secretary (pursuant to regulations of the Secretary and after consultation with the State educational agency of the State in which the school is located) to be a school in which the number of children meeting a measure of poverty under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6313(a)(5)], exceeds 30 percent of the total number of children enrolled in such school; and

(II) is in the school district of a local educational agency which is eligible in such year for assistance pursuant to part A of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311 et seq.]; or

(ii) in one or more public, or nonprofit private, elementary schools or secondary schools or locations operated by an educational service agency that have been determined by the Secretary (pursuant to regulations of the Secretary and after consultation with the State educational agency of the State in which the educational service agency operates) to be a school or location at which the number of children taught who meet a measure of poverty under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6313(a)(5)], exceeds 30 percent of the total number of children taught at such school or location;

(B) as a full-time staff member in a pre-school program carried on under the Head Start Act [42 U.S.C. 9831 et seq.], or in a pre-kindergarten or child care program that is licensed or regulated by the State, that is operated for a period which is comparable to a full school year in the locality if the salary of such staff member is not more than the salary of a comparable employee of the local educational agency;

(C) as a full-time special education teacher, including teachers of infants, toddlers, children, or youth with disabilities in a public or other nonprofit elementary or secondary school system, including a system administered by an educational service agency, or as a full-time qualified professional provider of

early intervention services in a public or other nonprofit program under public supervision by the lead agency as authorized in section 1435(a)(10) of this title;

(D) as a member of the Armed Forces of the United States, for service that qualifies for special pay under section 310 of title 37 as an area of hostilities;

(E) as a volunteer under the Peace Corps Act [22 U.S.C. 2501 et seq.] or a volunteer under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.];

(F) as a full-time law enforcement officer or corrections officer for service to local, State, or Federal law enforcement or corrections agencies, or as a full-time attorney employed in a defender organization established in accordance with section 3006A(g)(2) of title 18;

(G) as a full-time teacher of mathematics, science, foreign languages, bilingual education, or any other field of expertise where the State educational agency determines there is a shortage of qualified teachers;

(H) as a full-time nurse or medical technician providing health care services;

(I) as a full-time employee of a public or private nonprofit child or family service agency who is providing, or supervising the provision of, services to high-risk children who are from low-income communities and the families of such children;

(J) as a full-time fire fighter for service to a local, State, or Federal fire department or fire district;

(K) as a full-time faculty member at a Tribal College or University, as that term is defined in section 1059c of this title;

(L) as a librarian, if the librarian has a master's degree in library science and is employed in—

(i) an elementary school or secondary school that is eligible for assistance under part A of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311 et seq.]; or

(ii) a public library that serves a geographic area that contains one or more schools eligible for assistance under part A of title I of the Elementary and Secondary Education Act of 1965; or

(M) as a full-time speech language pathologist, if the pathologist has a masters degree and is working exclusively with schools that are eligible for assistance under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.].

For the purpose of this paragraph, the term “children with disabilities” has the meaning set forth in section 1401 of this title.

(3)(A) The percent of a loan which shall be canceled under paragraph (1) of this subsection is—

(i) in the case of service described in subparagraph (A), (C), (D), (F), (G), (H), (I), (J), (K), (L), or (M) of paragraph (2), at the rate of 15 percent for the first or second year of such service, 20 percent for the third or fourth year of such service, and 30 percent for the fifth year of such service;

(ii) in the case of service described in subparagraph (B) of paragraph (2), at the rate of 15 percent for each year of such service; or

(iii) in the case of service described in subparagraph (E) of paragraph (2) at the rate of 15 percent for the first or second year of such service and 20 percent for the third or fourth year of such service.

(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such loan which accrues for such year shall be canceled.

(C) Nothing in this subsection shall be construed to authorize refunding of any repayment of a loan.

(4) For the purpose of this subsection, the term “year” where applied to service as a teacher means academic year as defined by the Secretary.

(5) The amount of a loan, and interest on a loan, which is canceled under this section shall not be considered income for purposes of title 26.

(6) No borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

(7) An individual with an outstanding loan obligation under this part who performs service of any type that is described in paragraph (2) as in effect on October 7, 1998, shall be eligible for cancellation under this section for such service notwithstanding any contrary provision of the promissory note under which the loan or loans were made, and notwithstanding any amendment (or effective date provision relating to any amendment) to this section made prior to the date of such service.

(b) Reimbursement for cancellation

The Secretary shall pay to each institution for each fiscal year an amount equal to the aggregate of the amounts of loans from its student loan fund which are canceled pursuant to this section for such year, minus an amount equal to the aggregate of the amounts of any such loans so canceled which were made from Federal capital contributions to its student loan fund provided by the Secretary under section 1087hh of this title. None of the funds appropriated pursuant to section 1087aa(b) of this title shall be available for payments pursuant to this subsection. To the extent feasible, the Secretary shall pay the amounts for which any institution qualifies under this subsection not later than 3 months after the institution files an institutional application for campus-based funds.

(c) Special rules

(1) List

If the list of schools in which a teacher may perform service pursuant to subsection (a)(2)(A) of this section is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

(2) Continuing eligibility

Any teacher who performs service in a school which—

(A) meets the requirements of subsection (a)(2)(A) of this section in any year; and

(B) in a subsequent year fails to meet the requirements of such subsection,

may continue to teach in such school and shall be eligible for loan cancellation pursuant to subsection (a)(1) of this section such¹ subsequent years.

(Pub. L. 89-329, title IV, §465, as added Pub. L. 99-498, title IV, §405(a), Oct. 17, 1986, 100 Stat. 1451; amended Pub. L. 100-50, §13(j), June 3, 1987, 101 Stat. 349; Pub. L. 100-369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 101-476, title IX, §901(e), Oct. 30, 1990, 104 Stat. 1151; Pub. L. 101-647, title XXI, §2101(a), (b), Nov. 29, 1990, 104 Stat. 4856; Pub. L. 102-119, §26(h), Oct. 7, 1991, 105 Stat. 607; Pub. L. 102-325, title IV, §465(a)–(c), July 23, 1992, 106 Stat. 582, 583; Pub. L. 103-82, title I, §102(c)(3), Sept. 21, 1993, 107 Stat. 824; Pub. L. 103-208, §2(f)(12)–(14), (k)(7), Dec. 20, 1993, 107 Stat. 2471, 2486; Pub. L. 103-382, title III, §391(e)(3), Oct. 20, 1994, 108 Stat. 4022; Pub. L. 105-244, title IV, §465, Oct. 7, 1998, 112 Stat. 1728; Pub. L. 108-446, title III, §305(c)(1), Dec. 3, 2004, 118 Stat. 2805; Pub. L. 110-315, title IV, §465, Aug. 14, 2008, 122 Stat. 3267; Pub. L. 111-39, title IV, §405(5), July 1, 2009, 123 Stat. 1947.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(A)(i), (L), (M), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of this title. Part A of title I of the Act is classified generally to part A (§6311 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Head Start Act, referred to in subsec. (a)(2)(B), is subchapter B (§§635 to 657) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Peace Corps Act, referred to in subsec. (a)(2)(E), is Pub. L. 87-293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (a)(2)(E), is Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 394, as amended, which is classified principally to chapter 66 (§4950 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of Title 42 and Tables.

The National and Community Service Act of 1990, referred to in subsec. (a)(6), is Pub. L. 101-610, Nov. 16, 1990, 104 Stat. 3127, as amended. Subtitle D of title I of the Act is classified generally to division D of subchapter I (§12601 et seq.) of chapter 129 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

CODIFICATION

Amendment by section 2(f)(14) of Pub. L. 103-208 (which was effective as if included in Pub. L. 102-325) was executed to this section as amended by Pub. L. 102-325 and Pub. L. 103-82, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1087ee, Pub. L. 89-329, title IV, §465, as added Pub. L. 92-318, title I, §137(b), June 23, 1972, 86

¹ So in original. Probably should be “in such”.

Stat. 277; amended Pub. L. 95-561, title XIII, §1323, Nov. 1, 1978, 92 Stat. 2363; Pub. L. 96-374, title IV, §§442(b)(6), 448(d), (e), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1440, 1443, 1503, related to cancellation of loans for certain public service, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2009—Subsec. (a)(6). Pub. L. 111-39 substituted “12601” for “12571”.

2008—Subsec. (a)(2)(A). Pub. L. 110-315, §465(1)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: “as a full-time teacher for service in an academic year in a public or other nonprofit private elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, and which for the purpose of this paragraph and for that year has been determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under section 111(c) of the Elementary and Secondary Education Act of 1965 exceeds 30 percent of the total enrollment of that school;”.

Subsec. (a)(2)(B). Pub. L. 110-315, §465(1)(B), substituted “Head Start Act, or in a prekindergarten or child care program that is licensed or regulated by the State, that” for “Head Start Act which”.

Subsec. (a)(2)(C). Pub. L. 110-315, §465(1)(C), inserted “, including a system administered by an educational service agency” after “secondary school system”.

Subsec. (a)(2)(F). Pub. L. 110-315, §465(1)(D), added subpar. (F) and struck out former subpar. (F) which read as follows: “as a full-time law enforcement officer or corrections officer for service to local, State, or Federal law enforcement or corrections agencies;”.

Subsec. (a)(2)(J) to (M). Pub. L. 110-315, §465(1)(E)–(G), added subpars. (J) to (M).

Subsec. (a)(3)(A)(i). Pub. L. 110-315, §465(2)(A), inserted “(D),” after “(C),” and substituted “(I), (J), (K), (L), or (M)” for “or (I)”.

Subsec. (a)(3)(A)(iii), (iv). Pub. L. 110-315, §465(2)(B)–(D), redesignated cl. (iv) as (iii) and struck out former cl. (iii) which read as follows: “in the case of service described in subparagraph (D) of paragraph (2), not to exceed a total of 50 percent of such loan at the rate of 12½ percent for each year of qualifying service; or”.

2004—Subsec. (a)(2)(C). Pub. L. 108-446 made technical amendment to reference in original act which appears in text as reference to section 1435(a)(10) of this title.

1998—Subsec. (a)(2). Pub. L. 105-244, §465(1)(B), substituted “section 1401” for “section 1401(a)(1)” in concluding provisions.

Subsec. (a)(2)(C). Pub. L. 105-244, §465(1)(A), substituted “section 1435(a)(10)” for “section 1476(b)(9)”.

Subsec. (a)(7). Pub. L. 105-244, §465(1)(C), added par. (7).

Subsec. (b). Pub. L. 105-244, §465(2), inserted at end “To the extent feasible, the Secretary shall pay the amounts for which any institution qualifies under this subsection not later than 3 months after the institution files an institutional application for campus-based funds.”

1994—Subsec. (a)(2)(A). Pub. L. 103-382 substituted “title I of the Elementary and Secondary Education Act of 1965” for “chapter 1 of the Education Consolidation and Improvement Act of 1981”.

1993—Subsec. (a)(2)(A). Pub. L. 103-208, §2(k)(7), amended Pub. L. 102-325, §465(a)(1). See 1992 Amendment note below.

Subsec. (a)(2)(D). Pub. L. 103-208, §2(f)(12), substituted “service” for “services”.

Subsec. (a)(2)(F). Pub. L. 103-208, §2(f)(13), struck out “or” after semicolon at end.

Subsec. (a)(6). Pub. L. 103-208, §2(f)(14), realigned margin. See Codification note above.

Pub. L. 103-82 added par. (6).

1992—Subsec. (a)(2)(A). Pub. L. 102-325, §465(a)(1), as amended by Pub. L. 103-208, §2(k)(7), struck out before semicolon at end “and such determination shall not be made with respect to more than 50 percent of the total number of schools in the State receiving assistance under such chapter 1”.

Subsec. (a)(2)(C). Pub. L. 102-325, §465(a)(2), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “as a full-time teacher of children with disabilities in a public or other nonprofit elementary or secondary school system;”.

Subsec. (a)(2)(G) to (I). Pub. L. 102-325, §465(a)(3)–(5), added subpars. (G) to (I).

Subsec. (a)(3)(A)(i). Pub. L. 102-325, §465(b), substituted “(A), (C), (F), (G), (H), or (I)” for “(A), (C), or (F)”.

Subsec. (c). Pub. L. 102-325, §465(c), added subsec. (c). 1991—Subsec. (a)(2). Pub. L. 102-119 substituted “1401(a)(1)” for “1401(1)” in last sentence. The references to section 1401 include the substitution of “Individuals with Disabilities Education Act” for “Education of the Handicapped Act” in the original.

1990—Subsec. (a)(2). Pub. L. 101-476, §901(e), substituted “children with disabilities” for “handicapped children” in two places.

Subsec. (a)(2)(F). Pub. L. 101-647, §2101(a), which directed amendment of subsec. (a)(2) by adding at the end a new subpar. (F), was executed by adding subpar. (F) after subpar. (E) and before last sentence to reflect the probable intent of Congress.

Subsec. (a)(3)(A)(i). Pub. L. 101-647, §2101(b), which directed amendment of subsec. (a)(3)(i) by substituting “(A), (C), or (F)” for “(A) or (C)”, was executed by making the substitution in subsec. (a)(3)(A)(i) to reflect the probable intent of Congress.

1988—Subsec. (a)(5). Pub. L. 100-369 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1987—Subsec. (a)(2)(A). Pub. L. 100-50, §13(j)(1), (2), substituted “chapter 1 of the Education Consolidation and Improvement Act of 1981” for “title I of the Elementary and Secondary Education Act of 1965” and “such chapter 1” for “such title I”.

Subsec. (a)(2)(B). Pub. L. 100-50, §13(j)(3), substituted “the Head Start Act” for “section 2809(a)(1) of title 42”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

Amendment by Pub. L. 103-82 effective Oct. 1, 1993, see section 123 of Pub. L. 103-82, set out as a note under section 1701 of Title 16, Conservation.

EFFECTIVE DATE OF 1990 AMENDMENTS

Section 2101(c) of Pub. L. 101-647 provided that: “The amendments made by this section [amending this section] shall apply only to loans made on or after the date of enactment of this Act [Nov. 29, 1990] under part E of title IV of the Higher Education Act of 1965 [this part].”

Section 1001 of Pub. L. 101-476 provided that: “The amendments made by this Act [see Short Title of 1990

Amendment note set out under section 1400 of this title] shall take effect October 1, 1990.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99-498, set out as a note under section 1001 of this title.

Subsection (a)(2)(E) of this section applicable only to loans made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, to individuals who are new borrowers on that date, see section 405(b) of Pub. L. 99-498, set out as a note under section 1087dd of this title.

§ 1087ff. Distribution of assets from student loan funds

(a) In general

After September 30, 2003, and not later than March 31, 2004, there shall be a capital distribution of the balance of the student loan fund established under this part by each institution of higher education as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to the balance in such fund at the close of September 30, 2003, as the total amount of the Federal capital contributions to such fund by the Secretary under this part bears to the sum of such Federal contributions and the institution's capital contributions to such fund.

(2) The remainder of such balance shall be paid to the institution.

(b) Distribution of late collections

After October 1, 2012, each institution with which the Secretary has made an agreement under this part, shall pay to the Secretary the same proportionate share of amounts received by this institution after September 30, 2003, in payment of principal and interest on student loans made from the student loan fund established pursuant to such agreement (which amount shall be determined after deduction of any costs of litigation incurred in collection of the principal or interest on loans from the fund and not already reimbursed from the fund or from such payments of principal or interest), as was determined for the Secretary under subsection (a) of this section.

(c) Distribution of excess capital

(1) Upon a finding by the institution or the Secretary prior to October 1, 2004, that the liquid assets of a student loan fund established pursuant to an agreement under this part exceed the amount required for loans or otherwise in the foreseeable future, and upon notice to such institution or to the Secretary, as the case may be, there shall be, subject to such limitations as may be included in regulations of the Secretary or in such agreement, a capital distribution from such fund. Such capital distribution shall be made as follows:

(A) The Secretary shall first be paid an amount which bears the same ratio to the total to be distributed as the Federal capital contributions by the Secretary to the student

loan fund prior to such distribution bear to the sum of such Federal capital contributions and the capital contributions to the fund made by the institution.

(B) The remainder of the capital distribution shall be paid to the institution.

(2) No finding that the liquid assets of a student loan fund established under this part exceed the amount required under paragraph (1) may be made prior to a date which is 2 years after the date on which the institution of higher education received the funds from such institution's allocation under section 1087bb of this title.

(Pub. L. 89-329, title IV, § 466, as added Pub. L. 99-498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1453; amended Pub. L. 102-325, title IV, § 466, July 23, 1992, 106 Stat. 584; Pub. L. 103-208, § 2(f)(15), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 105-244, title IV, § 466, Oct. 7, 1998, 112 Stat. 1728; Pub. L. 110-84, title V, § 501, Sept. 27, 2007, 121 Stat. 801.)

PRIOR PROVISIONS

A prior section 1087ff, Pub. L. 89-329, title IV, § 466, as added Pub. L. 92-318, title I, § 137(b), June 23, 1972, 86 Stat. 278; amended Pub. L. 94-482, title I, § 130(h), Oct. 12, 1976, 90 Stat. 2147; Pub. L. 96-374, title IV, § 442(c), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1440, 1503, related to distribution of assets from student loan funds, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2007—Subsec. (b). Pub. L. 110-84 substituted “October 1, 2012” for “March 31, 2012”.

1998—Subsec. (a). Pub. L. 105-244, § 466(1)(A), in introductory provisions, substituted “2003” for “1996” and “2004” for “1997”.

Subsec. (a)(1). Pub. L. 105-244, § 466(1)(B), substituted “2003” for “1996”.

Subsec. (b). Pub. L. 105-244, § 466(2), substituted “2012” for “2005” and “2003” for “1996”.

Subsec. (c)(1). Pub. L. 105-244, § 466(3), substituted “2004” for “1997” in introductory provisions.

1993—Subsec. (c)(2). Pub. L. 103-208 realigned margin.

1992—Subsec. (b). Pub. L. 102-325, § 466(1), substituted “2005” for “1997”.

Subsec. (c). Pub. L. 102-325, § 466(2), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-84 effective Oct. 1, 2007, see section 1(c) of Pub. L. 110-84, set out as a note under section 1070a of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

§ 1087gg. Collection of defaulted loans: Perkins Loan Revolving Fund

(a) Authority of Secretary to collect referred, transferred, or assigned loans

With respect to any loan—

(1) which was made under this part, and
 (2) which is referred, transferred, or assigned to the Secretary by an institution with an agreement under section 1087cc(a) of this title, the Secretary is authorized to attempt to collect such loan by any means authorized by law for collecting claims of the United States (including referral to the Attorney General for litigation) and under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses reasonably incurred in attempting such collection.

(b) Collection of referred, transferred, or assigned loans

The Secretary shall continue to attempt to collect any loan referred, transferred, or assigned under paragraph (4) or (5) of section 1087cc(a) of this title until all appropriate collection efforts, as determined by the Secretary, have been expended.

(Pub. L. 89-329, title IV, § 467, as added Pub. L. 99-498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1453; amended Pub. L. 102-325, title IV, § 467, July 23, 1992, 106 Stat. 584; Pub. L. 105-244, title IV, § 467(a), Oct. 7, 1998, 112 Stat. 1728; Pub. L. 111-39, title IV, § 405(6), July 1, 2009, 123 Stat. 1947.)

PRIOR PROVISIONS

A prior section 1087gg, Pub. L. 89-329, title IV, § 467, as added Pub. L. 96-49, § 5(d)(3)(A), Aug. 13, 1979, 93 Stat. 352; amended Pub. L. 96-374, title IV, § 445(c), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1442, 1503; Pub. L. 99-272, title XVI, § 16029, Apr. 7, 1986, 100 Stat. 354, related to collection of defaulted loans, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2009—Subsec. (b). Pub. L. 111-39 substituted “paragraph (4) or (5)” for “paragraph (5)(A), (5)(B)(i), or (6)”.
 1998—Subsec. (c). Pub. L. 105-244 struck out heading and text of subsec. (c) which established the Perkins Loan Revolving Fund and provided for deposits into and payments from the Fund.

1992—Pub. L. 102-325 amended section catchline generally, inserting “: Perkins Loan Revolving Fund” after “loans” and added subsec. (c).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 to this section, relating to creation of Perkins Loan Revolving Fund, effective Sept. 15, 1997, see section 468(4) of Pub. L. 102-325, set out as a note under section 1087dd of this title.

TRANSFER OF BALANCE

Pub. L. 105-244, title IV, § 467(b), Oct. 7, 1998, 112 Stat. 1728, provided that: “Any funds in the Perkins Loan Revolving Fund on the date of enactment of this Act [Oct. 7, 1998] shall be transferred to and deposited in the Treasury.”

§ 1087hh. General authority of Secretary

In carrying out the provisions of this part, the Secretary is authorized—

(1) to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note evidencing a loan which has been made under this part;

(2) to enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption;

(3) to conduct litigation in accordance with the provisions of section 1082(a)(2) of this title; and

(4) to enter into a contract or other arrangement with State or nonprofit agencies and, on a competitive basis, with collection agencies for servicing and collection of loans under this part.

(Pub. L. 89-329, title IV, § 468, as added Pub. L. 99-498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1454.)

PRIOR PROVISIONS

A prior section 1087hh, Pub. L. 89-329, title IV, § 468, as added Pub. L. 96-374, title IV, § 442(a), Oct. 3, 1980, 94 Stat. 1437, related to alternative source of funds, prior to the general revision of this part by Pub. L. 99-498.

A prior section 1087il, Pub. L. 89-329, title IV, § 469, as added Pub. L. 96-374, title IV, § 442(a), Oct. 3, 1980, 94 Stat. 1439, related to recapture of current balance of student loan funds, prior to the general revision of this part by Pub. L. 99-498.

§ 1087ii. Definitions

(a) Low-income communities

For the purpose of this part, the term “low-income communities” means communities in which there is a high concentration of children eligible to be counted under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.].

(b) High-risk children

For the purposes of this part, the term “high-risk children” means individuals under the age of 21 who are low-income or at risk of abuse or neglect, have been abused or neglected, have serious emotional, mental, or behavioral disturbances, reside in placements outside their homes, or are involved in the juvenile justice system.

(c) Infants, toddlers, children, and youth with disabilities

For purposes of this part, the term “infants, toddlers, children, and youth with disabilities” means children with disabilities and infants and toddlers with disabilities as defined in sections 1401 and 1432 of this title, respectively, and the term “early intervention services” has the meaning given the term in section 1432 of this title.

(Pub. L. 89-329, title IV, § 469, as added Pub. L. 102-325, title IV, § 465(d), July 23, 1992, 106 Stat. 583; amended Pub. L. 103-382, title III, § 391(e)(4), Oct. 20, 1994, 108 Stat. 4022; Pub. L. 108-446, title III, § 305(c)(2), Dec. 3, 2004, 118 Stat. 2805; Pub. L. 111-39, title IV, § 405(7), July 1, 2009, 123 Stat. 1947.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a), is Pub. L. 89-10, Apr. 11,

1965, 79 Stat. 27, as amended. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

AMENDMENTS

2009—Subsec. (c). Pub. L. 111-39 substituted “and the term ‘early intervention services’ has the meaning given the term in section 1432 of this title.” for “and the term ‘qualified professional provider of early intervention services’ has the meaning specified in section 1472(2) of this title.”

2004—Subsec. (c). Pub. L. 108-446 substituted “sections 1401 and 1432” for “sections 1401(a)(1) and 1472(1)”.

1994—Subsec. (a). Pub. L. 103-382 substituted “title I” for “chapter 1 of title I”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

PART E—NEED ANALYSIS

CODIFICATION

This part was added as part F of title IV of Pub. L. 89-329 by Pub. L. 99-498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1454. The letter designation of this part was changed from “F” to “E” for codification purposes. See Codification note preceding section 1087a of this title.

§ 1087kk. Amount of need

Except as otherwise provided therein, the amount of need of any student for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 (except subparts¹ 1 or 2 of part A of this subchapter) is equal to—

- (1) the cost of attendance of such student, minus
- (2) the expected family contribution for such student, minus
- (3) estimated financial assistance not received under this subchapter and part C of subchapter I of chapter 34 of title 42 (as defined in section 1087vv(j) of this title).

(Pub. L. 89-329, title IV, §471, as added Pub. L. 99-498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1454; amended Pub. L. 102-325, title IV, §471(a), July 23, 1992, 106 Stat. 585; Pub. L. 105-244, title IV, §480(a), Oct. 7, 1998, 112 Stat. 1732.)

AMENDMENTS

1998—Pub. L. 105-244 substituted “or 2” for “or 4” in introductory provisions.

1992—Pub. L. 102-325 amended section generally. Prior to amendment, section read as follows: “Except as otherwise provided therein, the amount of need of any student for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 (except subparts 1 and 3 of part A of this subchapter) is equal to the cost of attendance of such student minus the expected family contribution for such student.”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-244, title IV, §480A, Oct. 7, 1998, 112 Stat. 1732, provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this part [part F (§§471-480A) of title IV of Pub. L. 105-244, amending this section and sections 1087ll to 1087tt and 1087vv of this

title] are effective on the date of enactment of this Act [Oct. 7, 1998].

“(b) PROVISIONS EFFECTIVE FOR ACADEMIC YEAR 2000-2001, AND THEREAFTER.—The amendments made by sections 472, 473, 474, and 475 [amending sections 1087nn to 1087qq of this title] shall apply with respect to determinations of need under part F of title IV of the Higher Education Act of 1965 [this part] for academic years beginning on or after July 1, 2000.”

EFFECTIVE DATE OF 1992 AMENDMENT

Section 471(b) of Pub. L. 102-325 provided that: “The changes made in part F of title IV of the Act [this part] by the amendment made by this section [amending sections 1087kk to 1087vv of this title] shall apply with respect to determinations of need under such part F for award years beginning on or after July 1, 1993.”

EFFECTIVE DATE

Section 406(b)(1)-(3) of Pub. L. 99-498, as amended by Pub. L. 100-50, §22(e)(1), (3), June 3, 1987, 101 Stat. 361, provided that:

“(1) Except as provided in paragraphs (2) through (4)—

“(A) part F of title IV of the Act [this part] shall apply with respect to determinations of need under such title for academic years beginning with academic year 1988-1989 and succeeding academic years; and

“(B) for any preceding academic year, determinations of need shall be made in accordance with regulations prescribed by the Secretary of Education in accordance with the Student Financial Assistance Technical Amendments Act of 1982 [Pub. L. 97-301, see Short Title of 1982 Amendment note set out under section 1001 of this title].

“(2) With respect to an application filed after the date of enactment of this Act [Oct. 17, 1986] for a loan under part B of such title [part B of this subchapter] for any academic year preceding academic year 1988-1989, any determination of expected family contribution shall be made using the system of financial need analysis approved by the Secretary of Education for use under subpart 2 of part A and parts C and E of such title [subpart 2 of part A of this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare, and part D of this subchapter].

“(3) For purposes of sections 413D(d)(2)(B) [now 413D(c)(2)(B)], 442(d)(2)(B) and 462(d)(2)(B) [20 U.S.C. 1070b-3(c)(2)(B), 42 U.S.C. 2752(d)(2)(B), 20 U.S.C. 1087bb(d)(2)(B)] for any academic year preceding academic year 1988-1989, the Secretary shall, in lieu of average expected family contribution, use the procedures for sampling expected family contribution within income categories that was employed for academic year 1986-1987, adjusted to reflect changes in data.

“(4) Section 479B of the Act [20 U.S.C. 1087uu] (as so added) shall apply with respect to financial assistance provided for any academic year beginning after such date of enactment [Oct. 17, 1986].”

[References to subpart 2 of part A of title IV of Pub. L. 89-329 deemed, after July 23, 1992, to refer to subpart 3 of such part, see section 402(b) of Pub. L. 102-325, set out as a note under section 1070a-11 of this title.]

SPECIAL STUDY OF SIMPLIFICATION OF NEED ANALYSIS AND APPLICATION FOR TITLE IV AID

Pub. L. 108-199, div. E, title III, §305, Jan. 23, 2004, 118 Stat. 263, provided that:

“(a) STUDY REQUIRED.—The Advisory Committee on Student Financial Assistance established by section 491 of the Higher Education Act of 1965 (20 U.S.C. 1098), hereafter in this section referred to as ‘the Advisory Committee’, shall conduct a thorough study of the feasibility of simplifying the need analysis methodology for all Federal student financial assistance programs and the process of applying for such assistance.

“(b) REQUIRED SUBJECTS OF STUDY.—In performing the study, the Advisory Committee shall, at a minimum, examine the following:

¹ So in original. Probably should be “subpart”.